

### **REMARKS**

Applicants have carefully reviewed the Office Action mailed March 5, 2008, and thank Examiner Erezo for his review of the pending claims. Claims 1 – 16 were pending. Those claims were rejected in the Office Action. In this response, Claims 1, 12, and 15 are amended. Support for the amendments is found in the specification. No new claims or new subject matter are added.

At least for the reasons set forth below, Applicants respectfully traverse the rejections. Further, Applicants believe that there are also reasons other than those set forth below why the pending and/or amended claims are patentable and reserve the right to set forth those reasons, and to argue for the patentability of claims not explicitly addressed herein, in future papers. Applicants respectfully request reconsideration of the present application in view of the above amendments and the following remarks.

### **INFORMATION DISCLOSURE STATEMENTS**

Applicants thank the Examiner for his consideration and record acknowledgement of the IDS's submitted 8/12/05 and 8/04/06.

### **DRAWINGS**

Applicants thank the Examiner for his comments concerning color photographs and drawings. Applicants respectfully request that the Examiner defer further consideration of the need for any petition, fee, or other submission under 37 CFR 1.84(a)(2) until such time as there is an indication of allowable claims.

### **CLAIM REJECTIONS**

#### **Rejection under 35 U.S.C. §102**

The Examiner rejected Claims 1, 3, 5-8, 10-12 and 14 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,366,326 to Barry et al. ("Barry"). The rejection is hereby traversed.

“To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently.” *MEHL/Biophile Int’l Corp. v. Milgram*, 192 F.3d 1362, 1365, 52 USPQ2d 1303 (Fed. Cir. 1999).

In this Response, without prejudice and without disclaimer of any subject matter, Applicants have amended independent Claims 1 and 12 by adding the element that “the purified alginate solution has a G/M ratio greater than 60/40.” The amendment is supported by the specification (see e.g., Par. 23). This element is not taught or disclosed in Barry. For at least this reason, Barry cannot anticipate independent Claims 1 and 12, and their respective dependent claims. Accordingly, Applicants respectfully request that the rejection be withdrawn and that Claims 1, 3, 5-8, 10-12 and 14 be allowed as amended.

#### **Rejections under 35 U.S.C. §103**

The Examiner rejected Claims 2, 13, 15 and 16 under 35 U.S.C. 103(a) as being unpatentable over Barry, as applied to the rejection to Claims 1 and 12 above, and in further view of U.S. Patent No. 5,433,739 to Sluijter et al. (“Sluijter”). The Examiner also rejected Claims 4 and 9 under 35 U.S.C. 103(a) as being unpatentable over Barry, as applied to Claim 1. The rejections are hereby traversed.

MPEP Section 2143 sets forth the basic requirements for the Patent and Trademark Office to establish *prima facie* obviousness as follows: “To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.”

In this Response, without prejudice and without disclaimer of any subject matter, Applicants have amended independent Claims 1, 12, and 15, and therefore by reference, dependent Claims 2, 4, 9, 13, and 16, by adding the element that “the purified alginate solution has a G/M ratio greater than 60/40.” The amendments are supported by the specification (see e.g., Par. 23). As discussed above, this element is not taught or disclosed by the primary reference, Barry. Nor is this deficit of Barry

cured by any attempted combination with the secondary reference, Sluijter, which itself contains no disclosure related to alginates. Thus, the attempted combination of Barry and Sluijter does not disclose all elements of any claim, as amended, and therefore cannot support a *prima facie* case of obviousness. For at least this reason, Applicants respectfully request that the rejection be withdrawn and that Claims 2, 4, 9, 13, 15 and 16 be allowed as amended.

**CONCLUSION**

In view of the above, the pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue.

Any fees associated with the filing of this paper have already been identified in the transmittals accompanying this paper. However, if any additional fees are required in connection with the filing of this paper that are not identified in any accompanying transmittals, permission is given to charge Deposit Account 18-0013, under order number 65306-0100 in the name of Rader, Fishman and Grauer PLLC.

If the Examiner has any questions or comments, the Examiner is kindly urged to call the undersigned to facilitate prosecution.

Dated: September 5, 2008

Respectfully submitted,

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